IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTIION

Writ Petition No.3313 of 2006

Santosh Vasantrao Mahajan ..Petitioner

vs.

Sou.Sangeeta Santosh Mahajan ..Respondent

Shri S.S.Patwardhan for petitioner.
Shri M.S.Lagu for respondent.

CORAM: S.C.DHARMADHIKARI J.
27th NOVEMBER, 2007

P.C.

1. This is a petition challenging the order below Exh.43 in Hindu Marriage Petition No.35 of 2001. By order under challenge, the Ad-hoc Additional District Judge, Kolhapur has rejected the application. That is a review application preferred by the petitioner/husband seeking review of the order of interim maintenance granted in favour of the respondent/wife.

2. Upon certain conditions namely, to pay/ deposit the amounts in the Trial Court, this Court has stayed the impugned order. The order of stay has been in force from 4th February, 2007.

3. It is reported that the amounts are deposited. The respondent/wife is at liberty to withdraw the said sums without prejudice to her rights and contentions. The deposit as also withdrawal is without prejudice to the rights and contentions of the petitioner/husband also.

4. Shri Lagu appearing for the respondent/wife makes another grievance in sofar as the fixed deposit with Mahalaxmi Cooperative Bank, kolhapur. He submits that the deposit was to remain till 2005 but there is no document evidencing that the same is done.

5. However, Shri Patwardhan relies upon the affidavit of the Manager of the Bank filed on 4th July, 2005 wherein it is stated that the said amount is still deposited. Be that as it may, I record the undertaking of the petitioner/husband that the said deposit, if not renewed, shall be renewed until the Hindu Marriage Petition is finally disposed of. Needless to state that the husband does not mind, ofcourse, without prejudice to his rights and contention that a sum of Rs.1500/- be paid over to the respondent wife from this deposit/accrued interest until further

orders are passed by the Trial Court.

6. Having perused the impugned order with the assistance of the learned Counsel appearing for both sides, I am of the view that the learned 7th Adhoc Additional District Judge, Kolhapur has failed to apply his mind to the vital aspect which has been raised in the review application. Considering that the petitioner/husband has shown his bonafides and all that he seeks is modification/review of the interim order granting interim maintenance, interest of justice would be subserved if the application under consideration is restored to file of the learned 7th Adhoc Additional District Judge/District Judge, Kolhapur for being decided afresh and in accordance with law without being influenced by the earlier observations. Accordingly Exh.43 in HMP No.335 of 2001 stands restored to the file of the Additional District Judge, Kolhapur and the said application be heard and disposed of within a period of two months from the date of receipt of copy of this order. All contentions of both sides are kept open. The respondent/wife is directed to place before the Trial Court the account number where she would like the amount of

the fixed deposit to be credited. Upon such intimation being given the Trial Court to issue appropriate directions so that Mahalaxmi Cooperative Bank ltd. can remit the sum directly to the bank account of the respondent wife. Petition is disposed of accordingly.

(S.C.DHARMADHIKARI J.)